REMARKS

Claims 1, 3-9, 11-18, 20 and 22-26 are pending in the application. Claims 1, 3-9, 11-18, 20 and 22-26 stand rejected. Applicants herein amend claims 1, 9 and 18. No new matter has been added. Entry of the amendments and further examination of the present application in view of the following remarks is hereby requested.

I.   **Telephonic Interview 5/19/2009**

Applicants thank the Examiner for granting an interview conducted *via* telephone on May 19, 2009. In this regard, Applicants appreciate the Examiner's discussion of the claimed subject matter's limitation "*optimized*" and "*native instruction*" events or decision point in light of Java OS, and as applied to the claimed subject matter. Potential amendments to place the claims in condition for allowance were discussed.

II.   **Rejection of Claims 1, 3-9, 11-18, 20 and 22-26 Under 35 U.S.C. § 102**

Claims 1, 3-9, 11-18, 20 and 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by JavaOS (art of record, "JavaOS for Business Version 2.0", Reference Manual, June 1998). Applicants respectfully disagree.

In response to Applicants arguments that the platform independent codes as provided in JavaOS are not complied to native codes, the Examiner contends that the phrase "complied to native code" are not explicitly recited in the rejected claims. (Office Action, pg. 3). Applicants respectfully submit that this exact phrase is not necessary because the current claims already describe the step of compiling to native code. For example, claim 1 recites "***an intermediate language compiler capable of compiling the application instructions, the runtime instructions and said at least a portion of said the driver instructions into a combined set of instructions executable by the processor.***" Furthermore, claim 1 clearly requires the application instructions, the runtime instructions and a portion of the driver instructions to be in an intermediate language. In other words, claim 1 describes compiling the intermediate language instructions into a set of instruction that is executed by the processor. Therefore, the final combined set of instruction must be native code. For this reason, the phrase "complied to native code" is not required because the claims already reflect similar meaning. Accordingly, as mentioned in the previous response, JavaOS fails to

anticipate claim 1 because platform independent code as provided in JavaOS are not complied to native code. (*See* response to Office Action dated 7/14/08, pg. 7).

Next, the Examiner maintains that an intermediate language compiler capable of compiling the application instructions, the runtime instructions, and said at least a portion of said driver instructions into a combined set of instructions executable by the processor for interacting with the computing component is taught in JavaOS. (page 1-1, JavaOS as a combined final set of instructions; pages 1-5 and 1-6, FIG. 1-1, JavaOS as a single executable program; page 7-18). Applicants respectfully disagrees.

As pointed out in the previous response, JavaOS fails to teach "*compiling the application instructions the runtime instructions and said at least a portion of said driver instructions into a combined set of instructions.*" The Examiner responded in the current action by citing the feature "Pre-Booting Execution Environment" (PXE). (Office Action, pg. 5). The Examiner asserts that PXE teaches "downloading the Java operating system JavaOS as an executable file from the server." (Office Action, pg. 2). However, Applicants respectfully submit that PXE is merely an environment to boot computers using a network interface. The purpose of PXE is to maintain boot consistency and interoperability between client and server machines and has nothing to do with managing drivers. More over, the Examiner's contention that PXE allows downloading "an executable file" is insufficient, the claim further requires the combined set of instruction to be complied from application instructions, runtime instructions and a portion of the driver instructions. Thus, JavaOS fails to teach this element of claim 1.

Finally, claim 1 has been amended to include "*wherein the combined set of native instructions are optimized, wherein the optimized instructions eliminates unnecessary conditional code*" to further highlight performance advantage of the combined set of instruction. As described in paragraph [0065 -0073], optimizations can be performed. As a result, conditional code can be eliminated if the condition is known at JIT time, trivial runtime functions can be inlined, and the complied application can write hardware-specific commands directly into command buffers. JavaOS does not teach optimizing the combined set of instructions. Thus, JavaOS cannot anticipate the claimed invention.

Inasmuch as claims 3-8 depend from claim 1, Applicants submit that they also patentably define over JavaOS for at least the same reasons.

Amended independent claim 9 recites:

> compiling the application program, the runtime program and the driver program into a single executable program for execution on the target computer system, wherein the single executable program is optimized, and wherein the optimized single executable program eliminates unnecessary conditional code.

As noted above, Java OS does not teach compiling into a single executable on the target computer system and fails to describe optimization of the single execution program. For at least that reason, Applicants submit that claim 9 is not anticipated by Java OS.

Inasmuch as claims 11-17 depend from claim 9, Applicants submit that they also patentably define over Java OS for at least the same reasons.

Amended independent claim 18 recites:

> instructions for compiling the application program, the runtime program and the driver program into a single executable program for execution on the target computer system, wherein the single executable program is optimized, and wherein the optimized single executable program eliminates unnecessary conditional code.

As noted above, Java OS does not teach compiling into a single executable on the target computer system and optimizing the single executable. For at least that reason, Applicants submit that claim 18 is not anticipated by Java OS.

Inasmuch as claims 20 -26 depend from claim 18, Applicants submit that they also patentably define over Java OS for at least the same reasons.

CONCLUSION

In the view of the foregoing amendments and remarks, Applicants respectfully submit that the present application is in condition for allowance. Reconsideration of the application and an early Notice of Allowance are respectfully requested. In the event that the Examiner cannot allow the application for any reason, the Examiner is encouraged to contact Applicants' representative.

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/Amy O. Kwan/
Amy O. Kwan
Registration No. 59,829

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439